

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2005-40-C - ORDER NO. 2005-245  
MAY 25, 2005

IN RE: Application of UCN, Inc. for Amendment of its Existing Certificate of Public Convenience and Necessity to Transact Business of a Reseller and Facilities Based Provider of Local Exchange Services, for Approval of its Initial Tariff and for Flexible Regulation.	) ORDER GRANTING ) MOTION FOR ) EXPEDITED REVIEW ) AND APPLICATION FOR ) AUTHORITY TO ) PROVIDE LOCAL ) EXCHANGE SERVICE
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This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of UCN, Inc. (“UCN” or “the Company”) requesting the authority to provide local exchange service in South Carolina. UCN is already authorized to provide resold interexchange service within the State of South Carolina. By this Application, the Company seeks authorization to offer facilities based and resold local exchange service to residential and business customers in South Carolina.

The Commission’s Docketing Department instructed UCN to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. UCN complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene Out of Time was filed with the Commission by the South Carolina Telephone Coalition (“SCTC”) on April 26, 2005. Order No. 2005-225 granted the Petition. UCN and SCTC entered into a Stipulation

Agreement. That Agreement is a part of the Commission's record in this matter. Under the Stipulation Agreement, UCN has agreed to provide local telecommunications service only to customers located in non-rural areas of South Carolina. Any exception to this limitation would require UCN to provide at least thirty days prior notice to the incumbent LEC and this Commission of UCN's intent to offer local service to a customer located in a rural incumbent LEC's service area.

UCN additionally seeks waiver of the regulatory requirements that it be required to keep its books and records in South Carolina, the requirement that it be required to publish and distribute telephone directories, and the filing of maps showing the Company's certificated area and/or exchange service area(s). UCN further requested in its Application that it be allowed to use Generally Accepted Accounting Principles ("GAAP") for its record keeping and reporting and for a waiver of any of the Commission's reporting requirements.

On April 18, 2005, this Commission issued Order No. 2005-164, which appointed a hearing examiner to hear this case.

On May 9, 2005, UCN, through its attorney, filed a letter requesting expedited review and for approval of its Application. UCN had previously provided the Commission with verified testimony of Kimm Partridge, Corporate Secretary of the Company. Documentation was provided evidencing that the Company possesses the financial, operational, and managerial resources required to provide high quality local exchange telecommunications service at competitive rates, terms and conditions. A Certificate for long distance authority was issued by this Commission in 1999 to Buyers

United International, Inc., and, pursuant to two further name change orders, UCN now owns the certificate.

### **FINDINGS OF FACT**

1. UCN is organized as a corporation under the laws of the State of Delaware and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. UCN was authorized to operate as a non-facilities based reseller of interexchange services in South Carolina by prior Orders of this Commission and now wishes to expand its service in South Carolina to include local exchange telecommunications services.

3. The Commission finds that UCN possesses the necessary experience, capability, and financial resources to provide local exchange telecommunications in South Carolina. S.C. Code Ann. Section 58-9-280(B)(1).

4. The Commission further finds that UCN will provide communications services which will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2).

5. The Stipulation Agreement entered into by UCN and the SCTC is made a part of the record in this matter. Under the terms of that Agreement, UCN will only offer local exchange service to customers in the non-rural areas of South Carolina. Should UCN wish to offer local exchange service to customers in the areas currently served by rural incumbent LECs, it shall provide at least thirty days prior written notice to the Commission and the incumbent LEC.

6. With the exception of the Petition to Intervene Out of Time filed by SCTC, which was resolved by the aforesated Stipulation, no additional protests or Petitions to Intervene were filed in this matter.

7. The Commission finds sufficient facts to support the Company's request to utilize GAAP to maintain its books of accounts.

8. The Commission finds that the Company has additionally established sufficient facts and cause to warrant its exemption from the Commissions requirement to publish local exchange directories and service area maps. In addition, we approve a waiver of the requirement that all company records be kept within the State of South Carolina.

9. The Commission finds that the provision of local exchange service by UCN will not adversely impact the availability of local exchange service, will support universally available telephone service at affordable rates, and will not adversely impact the public interest. S.C. Code Ann. Section 58-9-280(B)(3), (4) & (5).

#### **CONCLUSIONS OF LAW**

1. UCN's request for expedited review is granted on the basis of the facts as stated in this Order and under the authority of Commission Regulations 103-820 and 103-840.

2. Based on the above findings of fact, the Commission concludes UCN should be granted a Certificate of Public Convenience and Necessity to provide competitive intrastate local exchange services only to customers located in non-rural areas of South Carolina. The terms of the stipulation agreement between UCN and

SCTC are adopted as a part of this Order. Any proposals to provide local service to rural areas are, therefore, subject to the terms of the stipulation.

3. UCN shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with the Office of Regulatory Staff and comporting with South Carolina law.

4. With regard to UCN's service offerings, the Commission adopts a flexible local exchange rate structure first authorized by Order No. 98-165 in Docket No. 97-467-C. Specifically, UCN shall utilize a competitive rate structure incorporating maximum rate levels with the flexibility for rate adjustment below the maximum rate levels; and presume that UCN's tariff filings for local exchange services be valid upon filing, subject to the Commission's authority, within 30 days, to institute an investigation of such filings. At the discretion of the Commission such filings may be suspended pending further Order of the Commission and any such filings may be subject to the same monitoring process as the Commission applies to other similarly situated carriers.

5. UCN is further required to comply with, in accordance with its Application and under Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs UCN to contact the appropriate authorities regarding 911 service in the counties and cities where the

company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning local telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office of the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing local telephone services in South Carolina, UCN shall contact the 911 coordinator in each county (and city where the city has its own 911 system) and shall provide information regarding the Company's operations as required by the 911 system.

6. UCN shall resell the services of only those LECs authorized to do business in South Carolina by this Commission. If UCN changes underlying carriers, it shall notify the Commission in writing.

7. UCN is required to file annual report information for competitive local exchange carriers. The form the Company shall use to file annual financial information with the Commission can be found at the Commission's website at [www.psc.state.sc.us/forms/default.htm](http://www.psc.state.sc.us/forms/default.htm). This form is entitled "Annual Report for Competitive Local Exchange Carriers" and consists of four pages. Additionally, UCN shall file with the Commission a quarterly report entitled "CLEC Service Quality Quarterly Report." The proper form for this report is found on the Commission's website at [www.psc.state.sc.us/forms/default.htm](http://www.psc.state.sc.us/forms/default.htm).

8. The Company shall continue to maintain an authorized utility representative who must be prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. Further, the Company

shall promptly notify the Commission in writing if the representative(s) is replaced. The form UCN is required to use by which to file the authorized utility representative information may be found at the Commission's website at [www.psc.state.sc.us/forms/default.htm](http://www.psc.state.sc.us/forms/default.htm). This form is entitled "Authorized Utility Representative Information." UCN shall also file with the Commission a copy of its general bill form for the additional service authorized by this Order as required by S.C. Code Ann. Regs. 103-612.2 and 103-622.

9. UCN shall conduct its business in compliance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

10. The Federal Communications Commission (FCC) in July of 2000 required all telecommunications carriers throughout the United States to implement three-digit, 711, dialing for access to all Telecommunications Relay Services (TRS). The Commission issued a memorandum in March of 2001 instructing all South Carolina telecommunications carriers to implement the service completely by October of 2001. All competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) were instructed to include language in their tariffs introducing 711 as a new service offering with deployment by July 1, 2001, and to translate 711 dialed calls to 1-800-735-2905. All Payphone Service Providers (PSPs) were instructed to modify their programmable phones to translate calls dialed as 711 to the assigned TRS toll free number 1-800-735-2905 in order to route 711 calls to the TRS provider before October 2, 2001. Additionally, telephone directories were required to be updated and bill inserts

promoting 711 were also required. UCN must comply with the applicable mandates. For complete information on compliance with this FCC and Commission requirement, go to the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms).

11. By its Application, UCN requested a waiver of 26 S.C. Code Ann. Regs. 103-631 (1976 and Supp. 2004). In lieu of publishing local directories, UCN informs the Commission that if, and when, it provides switched voice services, it will contract with the incumbent LECs to provide UCN's customers with directory listings, as well as to undertake the distribution of directories. The Commission finds UCN's request reasonable and grants the requested waiver of the application of 26 S.C. Code Ann. Regs. 103-631 (1976 and Supp. 2004), as well as 26 S.C. Code Ann. Regs. 103-612.2.3 (1976 and Supp. 2004) with regard to operating area maps. Further, UCN is granted a waiver of 26 S.C. Regs. 103-610 (1976 and Supp. 2004) requiring the Company to maintain its financial books and records within the State of South Carolina. UCN is hereby granted permission to maintain its financial books and records at its principal headquarters, provided UCN will make its records available for inspection at reasonable times as requested. Further, the Commission acknowledges that UCN will maintain its financial books and records in conformance with GAAP. UCN is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

12. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/  
Randy Mitchell, Chairman

ATTEST:

/s/  
G. O'Neal Hamilton, Vice-Chairman

(SEAL)